

रजिस्ट्रं न० १०० ६७



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, सोमवार, २२ जुलाई, १९६८/३१ आषाढ़, १८९०

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATIONS

Simla-4, the 5th July, 1968

No. 1-48/68-VS.—In pursuance of Rule 135 of the Rules of Procedure, and Conduct of Business of the Himachal Pradesh Legislative Assembly,

१०२-गजट-२२-७-६८—४७०.

(६६५)

मूल्य: १३ पैसे

1964, "the Himachal Pradesh (Home Guards Bill, 1968) (Bill No. 25 of 1968)" as introduced in the Legislative Assembly on the 5th July, 1968 is hereby published in the Himachal Pradesh Government Gazette.

SURENDRANATH,
Under Secretary.

Bill No. 25 of 1968

**THE HIMACHAL PRADESH HOME GUARDS
BILL 1968**

(AS INTRODUCED BY THE LEGISLATIVE ASSEMBLY)

**A
BILL**

to provide for the constitution of Home Guards for use in emergency and for other purposes connected therewith in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Home Guards Act, 1968.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. The Government may, by notification, exclude any district or area from the operation of this Act.

3. In this Act, unless the context otherwise requires,—

(a) 'Form' means a form in the Schedule to this Act;

(b) 'Government' means the Government of Himachal Pradesh;

(c) 'Local authority' means a municipal, small town or notified area committee, zila parishad, gram panchayat or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;

(d) 'notification' means notification published under proper authority in the official gazette;

(e) 'Official Gazette' means the Rajpatra, Himachal Pradesh; and

(f) 'prescribed' means prescribed by rules made under this Act.

4. (1) The Government shall, by notification, constitute for the Union territory of Himachal Pradesh a volunteer body called the Home Guards, the members of which shall discharge such functions and duties in relation to the protection of persons, the security of property, the public safety and the maintenance of essential services as may be assigned to them in accordance with the provisions of this Act and the rules made thereunder:

Provided that the Government may, by notification, divide the Union territory of Himachal Pradesh into two or more areas and appoint a commandant for each such area.

(2) The administration and command of the Home Guards constituted under sub-section (1) for any area shall, under the overall command and control of the Commandant General, be vested in the Commandant who shall be appointed by the Government:

Provided that the Commandant may, with the approval of the Commandant General, delegate such administrative and disciplinary functions as may be necessary for the efficient functioning of the organisation, to any officer subordinate to him.

(3) The general supervision and control of the Home Guards throughout

Short title,
extent and
commence-
ment.

Exclusion
of any dist-
rict or area
from opera-
tion of this
Act.
Definitions.

Constitu-
tion of
Home Gu-
ards and
appoint-
ment of
Command-
ant General
and Comman-
dant.

Himachal Pradesh shall vest in the Commandant General who shall be appointed by the Government.

(4) Until a Commandant is appointed in an area under sub-section (1) the Commandant General may also exercise the powers and perform the functions assigned to the Commandant by or under this Act.

Appoint-
ment of
members
of Home
Guards.

5. (1) Subject to the approval of the Commandant General, the Commandant may appoint as members of the Home Guards such number of persons, who are fit and willing to serve, as may, from time to time, be determined by the Government, and may appoint any such member to any office of command in the Home Guards under him.

(2) Notwithstanding anything contained in sub-section (1), the Commandant General may appoint any such member to any office of command under his immediate control.

(3) A member of the Home Guards shall, on appointment, make a declaration in form I and receive a certificate of appointment in form II under the seal and signatures of such officer as may be prescribed.

(4) Subject to any rules made in this behalf, a member of the Home Guards shall be required to serve the Home Guards organisation for a period of three years (including the period spent in training) which period may be extended by the Government to such further period as it may consider necessary, and the member of the Home Guards shall, thereafter, serve in the reserve force of the Home Guards constituted as hereinafter provided, for a period of three years and shall, while serving in such reserve force, be liable to be called out for duty at any time.

Power to
discharge
a member of
Home
Guards.

6. Notwithstanding anything contained in sub-section (4) of section 5, the Commandant General or the Commandant shall have the authority to discharge any member of the Home Guards at any time subject to such conditions as may be prescribed, if, in his opinion, the services of such member are no longer required.

Reserve
force of
Home Gu-
ards.

7. The Government shall, by notification, constitute a reserve force of the Home Guards consisting of members of the Home Guards who under sub-section (4) of section 5 are required to serve in the reserve force.

Training,
functions
and duties
of members.

8. (1) The Commandant General, the Commandant, the District Magistrate or any other officer authorised by the Commandant may at any time call out a member of the Home Guards for training or to discharge any of the functions or duties assigned to the Home Guards in accordance with the provisions of this Act and the rules made thereunder.

(2) The Commandant General may, in an emergency, call out a member of the Home Guards for training or to discharge any of the said functions or duties in any part of Himachal Pradesh.

Powers,
protection
and control

9. (1) A member of the Home Guards when called out under section 8 shall have the same powers, privileges and protection as an officer of police appointed under any law for the time being in force.

(2) No prosecution shall be instituted against a member of the Home Guards in respect of anything done or purporting to be done by him in the discharge of his functions or duties as such member except with the previous sanction of the District Magistrate.

Control by
officers of
Police
force.

10. The members of the Home Guards when called out under section 8 in aid of the police force shall be under the control of the officers of the police force in such manner, and to such extent, as may be prescribed.

11. (1) Every person who for any reason ceases to be a member of the Home Guards shall forthwith deliver up to the Commandant or to such person, and at such place, as the Commandant may direct, his certificate of appointment or of office, identity card and the arms, ammunition, accoutrements, clothing and other necessities which have been furnished to him as such member.

Certificate, arms, etc. to be delivered by person ceasing to be a member of the Home Guards.

(2) Any Magistrate or, for special reasons which shall be recorded in writing, any police officer, not below the rank of an Assistant or Deputy Superintendent of Police, may issue a warrant to search for and seize, wherever they may be found, any certificate, identity card, arms, ammunition, accoutrements, clothing or other necessities not so delivered up. Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by a police officer or, if the Magistrate or the police officer issuing the warrant so directs, by any other person.

5 of 1898

(3) Nothing in this section shall be deemed to apply to any article which under the orders of the Commandant General has become the property of the person to whom the same was furnished.

12. (1) The Commandant General or the Commandant shall have the authority to suspend, reduce in rank, or dismiss or fine to an amount not exceeding fifty rupees, any member of the Home Guards under his control, if such member, on being called out under section 8, without reasonable cause, neglects or refuses to obey such order or to discharge his functions and duties as a member of the Home Guards or to obey any other lawful order or direction given to him for the performance of his functions and duties, is guilty of any breach of discipline or misconduct. The Commandant General or the Commandant shall also have the authority to dismiss any member of the Home Guards on the ground of conduct which has led to his conviction on a criminal charge.

Punishment of members for neglect of duty etc.

(2) When the Commandant General or the Commandant passes an order for suspending, reducing in rank, dismissing or fining any member of the Home Guards under sub-section (1), he shall record such order, or cause the same to be recorded, together with the reasons therefor and a note of the inquiry made, in writing and such order shall be passed by the Commandant General or the Commandant unless the person concerned is given an opportunity to be heard in his defence.

(3) Any member of the Home Guards aggrieved by an order of the Commandant may appeal against such order to the Commandant General and any such member aggrieved by an order of the Commandant General may appeal against such order to the Government, within thirty days of the date on which he was served with notice of such order. The Commandant General, or the Government, as the case may be, may pass such order as he or it thinks fit.

(4) The Commandant General, or the Government, may, at any time, call for and examine the record of any order passed by the Commandant or the Commandant General, respectively under sub-section (1) for the purpose of satisfying himself or itself as to the legality or propriety of such order passed by the Commandant or the Commandant General, as the case may be, and may pass such order with reference thereto as he or it thinks fit.

(5) Every order if no appeal is made therefrom as hereinbefore provided, and every order passed in appeal or revision under this section, shall be final.

(6) Any fine imposed under this section may be recovered in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of fines imposed by a court as if such fine were imposed by a court.

5 of 1898

(7) Any punishment inflicted on a member of the Home Guards under this section shall be in addition to the penalty to which such member is liable under section 13 or any other law for the time being in force.

Explanation.—When the Commandant General, while exercising the powers of the Commandant, passes any order under sub-section (1) or section 6,—

(a) the appeal from such order shall lie to the Government;

(b) for the purposes of sub-section (4), the power of revision in respect of such order shall vest in the Government.

Penalty.

13. (1) If any member of the Home Guards, on being called out under section 8, without reasonable excuse, neglects or refuses to obey such order, or to discharge his functions as such member or to obey any lawful order or direction given to him for the performance of his duties, he shall, on conviction, be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

(2) If any member of the Home Guards wilfully neglects or refuses to deliver up his certificate of appointment or of office or of any other article, in accordance with the provisions of sub-section (1) of section 11, he shall, on conviction, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

(3) No proceedings shall be instituted in any court under sub-section (1) or (2) without the previous sanction of the Commandant General.

(4) A police officer may arrest without warrant any person who commits an offence punishable under sub-section (1) or (2).

Power to make rules.

14. (1) The Government may, by notification, make rules consistent with this Act,—

(a) regulating the powers exercisable by the Commandant General, the Commandant, the District Magistrate or other officers authorised by the Commandant under section 8;

(b) providing for the exercise of control by officers of the police force over members of the Home Guards when acting in aid of the police force;

(c) regulating the organisation, appointment, conditions of service, qualifications, functions, duties, discipline, arms, accoutrements and clothing of members of the Home Guards and the manner in which they may be called out for service or be required to undergo any training;

(d) regulating the exercise by members of the Home Guards of any of the powers exercisable under section 9 of this Act; and

(e) generally for giving effect to the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

45 of 1860. 15. Members of Home Guards acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members of the Home Guards to be public servants.

16. (1) Notwithstanding anything contained to the contrary in any other law for the time being in force, a member of the Home Guards, shall not be disqualified for being chosen as, and for being, a member of any local authority or legislature merely by reason of the fact that he is a member of the Home Guards.

Home Guards not disqualified from contesting elections to legislature or local bodies.

(2) For the removal of doubts, it is hereby declared that a Commandant General or Commandant appointed under section 4 shall not be a member of the Home Guards and as such, he shall be disqualified for being chosen as, and for being, a member of any local authority or legislature.

3 of 1947. 17. The Bombay Home Guards Act, 1947, as applicable to the areas comprised in Himachal Pradesh immediately before the 1st November, 1966, and the East Punjab Volunteer Corps Act, 1947, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, are hereby repealed:

Repeal and savings.

8 of 1947

31 of 1966.

Provided that anything done or any action taken, including any rule, appointment, declaration, or delegation made, order, notification, certificate or notice issued, direction given, Home Guards or reserve force constituted, and any proceedings commenced or continued, under the provisions of any of the Acts hereby repealed, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

FORM I

[See section 5(3)]

DECLARATION

I.....

resident of
do hereby solemnly declare and affirm that I will truly serve as a member of the Home Guards without favour or affection, malice or ill-will, communal or political bias, for a period of three years from the date of appointment, including the period spent in training or for such further period as may be extended by the Government and will, also, thereafter, serve in the reserve force of the Home Guards for a period of three years during which period, I undertake to serve as a member of the Home Guards at any time and place in India if I am called out for training or duty. I will to the best of my skill and knowledge discharge the duties of a member of the Home Guards.

Place.....

Date.....

(Signature)

FORM II

[See section 5(3)]

FORM OF CERTIFICATE OF APPOINTMENT

Shri.....

son of Shri....., resident of.....
has been appointed a member of the Home Guards under section 5(3) of the Himachal Pradesh Home Guards Act, 1968. When lawfully on duty, he shall have the same powers, privileges and protection as an officer of police appointed under any law for the time being in force.

Date of appointment.....

Place

Date

Signature and seal of the
prescribed authority.

STATEMENT OF OBJECTS AND REASONS

At present, there are two different Acts in force in two different areas of Himachal Pradesh in regard to the constitution of the Home Guards and matters connected therewith. One of these Acts is the Bombay Home Guards Act, 1947, as applicable to the areas comprised in Himachal Pradesh immediately before the 1st November, 1966, and the other is the East Punjab Volunteer Corps Act, 1947, which is in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to enact one unified law for the whole of Himachal Pradesh, and this Bill seeks to achieve the aforesaid object.

3 of 1947.

8 of 1947.

31 of 1966.

SIMLA:
The 5th July, 1968.

Y. S. PARMAR,
Chief Minister.

FINANCIAL MEMORANDUM

Since the provisions of the Bill are mostly indetical with those of the existing Acts, no increase or decrease in expenditure is involved.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 14 empowers the Government to make rules in regard to the matters enumerated therein. The proposed delegation is normal in character.

No. 1-35/68-VS.—In pursuance of Rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1964, “the Himachal Pradesh Forests (Sale of Timber) Bill, 1968 (Bill No. 26 of 1968)” as introduced in the Legislative Assembly on the 5th July, 1968, is hereby Published in the Himachal Pradesh Government Gazette.

SURENDRANATH,
Under Secretary.

Bill No. 26 of 1968

THE HIMACHAL PRADESH FOREST (SALE OF TIMBER) BILL, 1968
(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

**A
BILL**

to provide for the control of the sale of timber and establishment of sale depots for such timber in Himachal Pradesh.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Forest (Sale of Timber) Act, 1968.

(2) It shall extend to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. (1) In this Act, unless the context otherwise requires,—

(a) "Official Gazette" means the Rajpatra, Himachal Pradesh; and

(b) "State Government" means the Government of Himachal Pradesh.

(2) Words and expressions used, but not defined, in this Act and defined in the Indian Forest Act, 1927, shall have the meanings, respectively, assigned to them in that Act.

3. (1) The State Government may, by notification in the Official Gazette, make rules to regulate the sale of timber and the establishment of sale depots for such timber.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may,—

(a) prescribe the classes of timber to which the rules shall apply;

(b) define what shall be deemed to be a sale depot;

(c) provide for the establishment, registration, regulation and inspection of the depots, and the levy of fees for registration; prescribe the period for which registration shall hold good and the conditions under which timber may be brought to, stored at and removed from, sale depots; and prohibit the sale of timber at or the establishment or maintenance of unregistered sale depots;

(d) regulate the use of sale depot marks and the registration of such marks; prescribe the time for which registration shall hold good; and provide for the levy of fees for registration;

(e) prescribe the registers to be maintained at sale depots and provide for the production of such registers before and for their examination by any forest officer authorised in this behalf by the divisional forest officer;

(f) prescribe, as penalties for the infringement of any rule made under this section, imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both. Double penalties may be inflicted where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority or if the offender has been previously convicted of a like offence.

(3) All rules made under this section shall be so made after previous publication in the Official Gazette.

(4) All rules made under this Act shall be laid before the Legislative Assembly as soon as may be after they are made.

4. The provisions of chapter IX of the Indian Forest Act, 1927, with the exception of section 68, shall apply, so far as may be, to any infringement of the rules made under this Act as if such infringement were a forest offence under the Indian Forest Act, 1927.

Short title,
extent and
commence-
ment.
Definitions.

Power to
make rules,
regulating
sale of tim-
ber and the
establish-
ment of sale
depots.

Application
of chapter
IX of Indian
Forest Act,
1927.

Indemnity
for acts done
in good
faith.
Repeal and
savings.

5. No suit shall lie against any public servant for anything done by him in good faith under this Act.

6. The following Acts are hereby repealed:—

- (1) the Punjab Forest (Sale of Timber) Act, 1913, as applicable to the areas merged with Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966; and
- (2) the Punjab Forest (Sale of Timber) Act, 1913, as applicable to the district of Bilaspur by the Bilaspur (Application of Laws) Order, 1949:

3 of 1913

31 of 1966

3 of 1913

Provided that anything done, or any action taken or proceedings commenced or continued under the Acts hereby repealed shall be deemed to have been done, taken, commenced or continued under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

With a view to take effective measures to check thefts of river borne timber which were on the increase in various rivers and also to provide for registration of sale depots and to prohibit the sale of timber elsewhere than at registered sale depots, the Punjab Government had enacted the Punjab Forest (Sale of Timber) Act 1913, which is still operative in the merged areas of Himachal Pradesh. This Act is also operative in the district of Bilaspur under the provisions of the Bilaspur (Application of Laws) Order, 1949. In other areas of old Himachal Pradesh too, the thefts of timber in the rivers and smuggling of timber is on the increase and percentage of river losses on account of thefts is rising alarmingly. Enactment of this proposed Bill will, therefore, go a long way in checking this evil. This will also achieve the object of having a uniform law throughout the Pradesh.

SIMLA:
The 5th July, 1968.

PADAM DEV,
Forest Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the State Government to make rules in respect of the matters enumerated therein. These rules shall be made after previous publication and shall be laid before the Legislative Assembly as soon as may be after they are made.

